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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/572,710

03/17/2006

Dong Zhu

884A.0129.U1(US)

4697

29683 7590 08/01/2008
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EXAMINER

HANNON, CHRISTIAN A

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

08/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|--|--|---|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | <p>Application No. 10/572,710</p> | <p>Applicant(s) ZHU ET AL.</p> | |
| | <p>Examiner CHRISTIAN A. HANNON</p> | <p>Art Unit 2618</p> | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-11, 13-25.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Edward Urban/
Supervisory Patent Examiner, Art Unit 2618

/C. A. H./
Examiner, Art Unit 2618
July 21, 2008

Continuation of 11. does NOT place the application in condition for allowance because: Regarding the applicant's claim that Hinckley does not disclose an inclinometer mode in which the processor receives an indication of the detected incline in the first plane from the incline sensor and controls the display to display an item at a position dependent upon the received indication, the examiner respectfully disagrees. The applicant has objected to the examiner's interpretation of the word 'mode' however as mode may be defined as either 'a setting' or 'a method of doing', ultimately these two are the same as 'a setting' is in fact 'a method of doing'. Put another way a machine setting is a particular way of performing a method to achieve something. Therefore the current claim language fails to patently define over the Hinckley art. Furthermore the applicant supports the argument for the exact implied meaning of the claimed 'inclinometer mode' by referring back to the specification's recitation that the mode relates to a setting on the mobile telephone that a user can select to enable the mobile telephone to function as an inclinometer. This may be so but if not claimed the examiner can not read the specification into the claim, and therefore it is believed the current rejection is proper with no further claim to the particular specifics of the present application. Regarding the applicant's objection to the examiner's response to arguments from the final rejection at page 12, third paragraph, again the examiner respectfully disagrees. As conceded by the applicant Hinckley teaches measuring of an angle that correlates to scroll speed, such as a measurement of small medium or large angle, therefore as claimed, with no reference to accurately determining a value, or a numerical visual display, the cited rejection is believed proper. Regarding claim 24, as shown above Hinckley teaches an inclinometer mode, the examiner has relied on Kalinski to teach a spirit level emulation, the applicant's characterization of the Kalinski art as an image capture apparatus is irrelevant as the examiner has solely relied on the spirit level teaching and therefore is believed proper. Furthermore the applicant's claim makes no reference to the inclinometer needing to be visually sensed by a user and has been rejected by the examiner accordingly. Claim 1 and all dependents therefrom remain rejected. Regarding applicant's remarks regarding claims 11, 15 & 25, as shown above in relation to claim 1 Hinckley does teach an inclinometer mode, these same remarks apply to claims 11, 15 & 25.